

1 SB454
2 116060-1
3 By Senator Smitherman
4 RFD: Business and Labor
5 First Read: 23-FEB-10

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8 SYNOPSIS: This bill would amend the Alabama Athletic
9 Trainers Licensure Act to delete the title
10 "Apprentice Athletic Trainer" and replace it with
11 "Athletic Training Student" and to further expand
12 certain definitions.

13 This bill would delete the staggered
14 expiration dates for the initial appointments to
15 the board of athletic trainers that are currently
16 obsolete.

17 This bill would allow a person involved in
18 an approved athletic training education program to
19 serve as an athletic training student.

20 This bill would also expand the therapeutic
21 treatments an athletic trainer may use.

22 This bill would also make it unlawful for a
23 person to provide athletic training service or
24 represent themselves to be an athletic trainer
25 without a license.

26
27 A BILL

1 TO BE ENTITLED

2 AN ACT

3
4 To amend Sections 34-40-2, 34-40-3, 34-40-4,
5 34-40-5, as amended by Act 2009-41, 2009 Regular Session (Acts
6 2009, p. 140), 34-40-6, 34-40-9, 34-40-10, 34-40-11, 34-40-13,
7 34-40-14, and 34-40-15, Code of Alabama 1975; relating to the
8 Alabama Athletic Trainers Licensure Act; to delete the title
9 "apprentice athletic trainer" and replace it with "athletic
10 training student"; and to expand further certain definitions;
11 to delete obsolete dates; to allow a person enrolled in an
12 approved athletic training program to serve as an athletic
13 training student; to expand therapeutic treatments an athletic
14 trainer may use; to make it unlawful to provide athletic
15 training services without a license; and to repeal Sections
16 34-40-7 and 34-40-16, Code of Alabama 1975.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Sections 34-40-2, 34-40-3, 34-40-4,
19 34-40-5, as amended by Act 2009-41, 2009 Regular Session (Acts
20 2009, p. 140), 34-40-6, 34-40-9, 34-40-10, 34-40-11, 34-40-13,
21 34-40-14, and 34-40-15, Code of Alabama 1975, are amended to
22 read as follows:

23 "§34-40-2.

24 "As used in this chapter, the following words and
25 phrases shall have the following meanings, respectively,
26 unless the context clearly indicates otherwise:

1 "~~(2)(1)~~ ATHLETE. A person who ~~participates in an~~
2 ~~athletic activity being conducted by an educational~~
3 ~~institution, professional athletic organization, or a board~~
4 ~~sanctioned amateur athletic organization, in association with~~
5 ~~an educational institution, industrial organization, or~~
6 ~~professional, amateur, or recreational sports club or~~
7 ~~organization, participates in functional activities, exercise,~~
8 ~~recreation, sport, or game requiring physical strength, range~~
9 ~~of motion, flexibility, body awareness and control, speed,~~
10 ~~stamina, or agility.~~

11 "~~(3)(2)~~ ATHLETIC INJURY. An injury ~~received by an~~
12 ~~athlete as a result of the preparation or participation of the~~
13 ~~athlete in an athletic activity sustained by an athlete that~~
14 ~~affects the athlete's participation or performance in sports,~~
15 ~~games, recreation, exercise, or activity that requires~~
16 ~~physical strength, agility, flexibility, speed, stamina, or~~
17 ~~range of motion; or condition identified by a licensed~~
18 ~~physician as benefiting from athletic training services.~~

19 "~~(4)(3)~~ ATHLETIC TRAINER. A person licensed by the
20 ~~Alabama Board of Athletic Trainers as an athletic trainer and~~
21 ~~who practices athletic training on an athlete under the~~
22 ~~direction or referral, or both, of a licensed physician after~~
23 ~~meeting the requirements of this chapter and rules and~~
24 ~~regulations promulgated pursuant to this chapter. A board~~
25 ~~certified, allied health care professional licensed by the~~
26 ~~Alabama Board of Athletic Trainers who meets the~~
27 ~~qualifications of the regulations set by the board and~~

1 practices athletic training under the direction of a licensed
2 physician.

3 ~~"(5)(4) ATHLETIC TRAINING PRACTICE. The practice by~~
4 ~~an athletic trainer of prevention, recognition, assessment or~~
5 ~~evaluation, therapeutic management, disposition,~~
6 ~~reconditioning, and rehabilitation of athletic injuries~~
7 ~~performed under the direction of a licensed physician and~~
8 ~~within the professional preparation and education of a~~
9 ~~licensed athletic trainer. The practice of athletic training~~
10 ~~does not include the practice of physical therapy or~~
11 ~~occupational therapy or joint manipulation as routinely~~
12 ~~performed by a licensed chiropractor. For the purpose of the~~
13 ~~preceding sentence, "joint manipulation" means the~~
14 ~~manipulation, adjustment, or Grade V mobilization of a joint~~
15 ~~by direct force performed at the limit of the range of motion~~
16 ~~of the joint, but within the anatomical integrity of the~~
17 ~~joint. Manipulation commences where mobilization ends and~~
18 ~~begins when the elastic barrier of resistance is encountered.~~
19 ~~Practice by an athletic trainer of any of the following:~~

20 ~~"a. Under physician direction or referral, or both,~~
21 ~~the prevention of athletic injuries.~~

22 ~~"b. The organization and administration of athletic~~
23 ~~training programs.~~

24 ~~"c. Athletic counseling and guidance and the~~
25 ~~education of athletes regarding athletics and athletic~~
26 ~~training.~~

1 ~~"d. Under physician direction and referral, the~~
2 ~~rehabilitation and reconditioning of an athlete.~~

3 ~~"e. Under physician supervision, the evaluation, the~~
4 ~~recognition, and management of athletic injuries.~~

5 "(5) ATHLETIC TRAINING SETTINGS:

6 "a. Traditional setting. An educational institution
7 or professional, amateur, or recreational sports club or
8 organization. In this setting, the athletic trainer works
9 under the direction of a licensed physician in providing
10 injury prevention, rehabilitation, and health and wellness
11 services for which the athletic trainer has received the
12 appropriate education and training.

13 "b.1. Nontraditional clinical setting. A hospital,
14 department, outpatient facility, clinic, or physician's
15 office. In this setting, the athletic trainer works under the
16 direction of a licensed physician in providing injury
17 prevention, rehabilitation, and health and wellness services
18 for which the athletic trainer has received the appropriate
19 education and training.

20 "2. Nontraditional industrial setting. A work
21 setting whereby the athletic trainer utilizes his or her
22 education in promoting wellness and injury prevention for
23 which the athletic trainer has received the appropriate
24 education and training to decrease injuries. Treatment of
25 industrial injuries by an athletic trainer shall only be upon
26 the referral of a physician licensed to practice medicine in
27 the State of Alabama.

1 "~~(1)~~(6) ~~APPRENTICE ATHLETIC TRAINER~~ ATHLETIC
2 TRAINING STUDENT. A person who assists in the duties usually
3 performed by an athletic trainer and who works under the
4 direct supervision of a licensed athletic trainer.

5 "~~(6)~~(7) BOARD. The Alabama Board of Athletic
6 Trainers.

7 "~~(7)~~(8) PHYSICAL THERAPIST. A physical therapist
8 licensed by the Alabama State Board of Physical Therapy.

9 "~~(8)~~(9) PHYSICIAN. A physician licensed by the
10 Medical Licensure Commission of Alabama.

11 "~~(9)~~(10) PHYSICIAN ~~SUPERVISION~~ DIRECTION. A licensed
12 athletic trainer acting under the ~~supervision~~ direction of a
13 physician if:

14 "a. The activities are undertaken pursuant to a
15 verbal or written order of the physician who has evaluated the
16 injured athlete; and

17 "b. The activity is undertaken in accordance with a
18 written protocol signed by the physician which describes the
19 athletic injury encountered and directs appropriate medical
20 interventions consistent with the qualification, training, and
21 experience of the licensed athletic trainer. The State Board
22 of Medical Examiners shall establish minimum medical criteria
23 for any protocol used by athletic trainers and shall specify
24 those conditions and circumstances which require referral to
25 the physician for further evaluation.

26 "§34-40-3.

1 "(a) The Alabama Board of Athletic Trainers shall be
2 composed of nine members who shall serve four-year terms.
3 Members may not serve more than three consecutive four-year
4 terms. Three members shall be ~~Black~~ African-American, one of
5 whom shall be a physician member. The composition of the board
6 shall be as follows:

7 "(1) Six members appointed by the Alabama Athletic
8 Trainers Association in accordance with subsection (b) below,
9 one of whom shall be an athletic trainer who is a licensed
10 physical therapist.

11 "(2) Three physicians licensed to practice medicine
12 actively engaged in the treatment of athletes and athletic
13 injuries appointed by the Medical Association of the State of
14 Alabama.

15 "(3) The President of the Alabama Athletic Trainers
16 Association who shall serve as an ex officio member of the
17 board and whose term of office shall be yearly to coincide
18 with his or her term as President of the Alabama Athletic
19 Trainers Association.

20 "(b) The six athletic trainers shall be appointed by
21 the Alabama Athletic Trainers Association. The association
22 shall conduct an annual meeting at which all athletic trainers
23 holding a current license as identified under this chapter
24 shall have the right to attend, nominate, and vote. The
25 association shall regulate and prescribe the date, hour, and
26 place of the meeting, the method of nomination, and the manner
27 of voting. At least 30 days prior to the meeting, the

1 association shall mail notices to each current licensee at the
2 address shown on the current registration notifying of the
3 exact date, hour, and place of the meeting, the purpose of the
4 meeting, and of the right to attend and vote. To qualify as a
5 board member pursuant to this subsection, a person shall be a
6 citizen of the United States and have acted as an athletic
7 trainer for three years within this state immediately
8 preceding appointment.

9 ~~"(c) In making the initial appointments, the Alabama~~
10 ~~Athletic Trainers Association shall appoint one athletic~~
11 ~~trainer whose term will expire in 1994, two athletic trainers~~
12 ~~whose terms will expire in 1995, and one athletic trainer~~
13 ~~whose term will expire in 1996, and two athletic trainers~~
14 ~~whose terms will expire in 1997. The Medical Association of~~
15 ~~the State of Alabama shall appoint one physician whose term~~
16 ~~will expire in 1994, one physician whose term will expire in~~
17 ~~1995, and one physician whose term will expire in 1996. All~~
18 ~~appointments expire on December 31 of the year specified.~~

19 ~~"(d)(c)~~ Each appointee to the board shall qualify by
20 taking an oath of office within 15 days from the date of the
21 appointment. In the event of death, resignation, or removal of
22 any member, except for physician members, the vacancy of the
23 unexpired term shall be filled by the board.

24 ~~"(e)(d)~~ The board shall elect a chair, a vice-chair,
25 and secretary from its members for a term of one year and may
26 appoint any committees and formulate any rules it considers
27 necessary to carry out its duties pursuant to this chapter.

1 The board shall meet at least twice each year. Additional
2 meetings may be held on the call of the chair or at the
3 written request of any two members of the board. Five members
4 shall constitute a quorum. The secretary shall keep a record
5 of the proceedings of the board. The board may promulgate and
6 adopt rules and regulations consistent with this chapter which
7 are necessary for the performance of its duties. The board may
8 employ an executive secretary and any officers and employees
9 as may be necessary to carry out the duties of the board. The
10 State Board of Medical Examiners and the Alabama Board of
11 Athletic Trainers shall jointly approve any rule, regulation,
12 or policy that interprets, explains, or enumerates the
13 permissible acts, functions, or services rendered by an
14 athletic trainer or ~~apprentice athletic trainer~~ athletic
15 training student as those acts, functions, and services are
16 defined in Section 34-40-2. Any rule, regulation, or policy
17 adopted in violation of this requirement is invalid. The board
18 shall prescribe forms for license applications, license
19 certificate, license renewal, verification of license,
20 continuing education verification, and any forms for
21 information required from licensees to carry out the duties of
22 the board. The board shall adopt an official seal and a
23 license certificate of suitable design.

24 ~~"(f)~~ (e) Members of the board shall receive fifty
25 dollars (\$50) for every day actually spent in the performance
26 of their duties and in addition thereto shall be reimbursed
27 according to the state travel policy for other expenses in the

1 same amounts and under the same conditions as state employees
2 are reimbursed.

3 ~~"(g)(f)~~ It shall be the duty of the board to pass
4 upon the qualifications of applicants for licensure as an
5 athletic trainer, and to issue licenses and annual renewals to
6 athletic trainers. The board shall be responsible for fixing
7 fees for such applications, licenses, renewals, verification
8 of licensure, replacement of licenses, name changes on
9 licensees, publication fees, or other administration fees
10 deemed necessary to carry out the provisions of this chapter.

11 "§34-40-4.

12 ~~"No person shall use the title "athletic trainer",~~
13 ~~"certified athletic trainer", or "licensed athletic trainer",~~
14 ~~or use the letters "LAT", "ATC", or "AT", or any other~~
15 ~~facsimile thereof, whether or not compensation is received or~~
16 ~~expected, unless the person is licensed as an athletic trainer~~
17 ~~in this state pursuant to this chapter. No person shall hold~~
18 ~~himself or herself out as an athletic trainer or perform the~~
19 ~~services of an athletic trainer, as defined in this chapter,~~
20 ~~without first obtaining a license under this chapter;~~
21 ~~provided, however, that nothing in this chapter shall be~~
22 ~~construed to prevent any person who is enrolled in an approved~~
23 ~~college or university athletic training education program,~~
24 ~~under the direct supervision of a licensed athletic trainer,~~
25 ~~from serving as an athletic training student.~~

26 "§34-40-5.

1 "(a) Any person seeking licensure as an athletic
2 trainer shall be a citizen of the United States or, if not a
3 citizen of the United States, a person who is legally present
4 in the United States with appropriate documentation from the
5 federal government, and meet at least one of the following
6 requirements:

7 "(1) Satisfactory completion of all of the ~~National~~
8 ~~Athletic Trainers' Association (NATA)~~ Board of Certification,
9 Inc., qualifications and certification as an athletic trainer
10 in good standing by the ~~National Athletic Trainers'~~
11 ~~Association~~ Board of Certification, Inc.

12 "(2) Licensure by reciprocity. The board shall
13 grant, without examination, licensure to any qualified
14 athletic trainer holding a license certificate or registration
15 in another state if that state maintains licensure
16 qualifications which are substantially equivalent to those
17 required in this state, and gives similar reciprocity to
18 licensees of this state.

19 "(b) Any person desiring to be licensed, desiring a
20 renewal of an existing license, desiring verification of
21 licensure, reinstatement of a license, replacement of a
22 license, or name changes for a licensee as an athletic trainer
23 in this state shall make and file with the board, not less
24 than 30 days prior to any regular meeting thereof, a written
25 application on a form as prescribed by the board. The
26 application shall be accompanied by the payment of a fee, as
27 set by the board, to include publication fees or other

1 administrative fees deemed necessary to carry out the
2 provisions of this chapter, in accordance with subsection
3 ~~(g)~~(f) of Section 34-40-3. Any licensee who fails to renew his
4 or her license within 90 days following expiration of the
5 previous license shall be required to file a new application
6 and pay an application fee with the board.

7 "§34-40-6.

8 "An athletic trainer, functioning under the
9 ~~supervision~~ direction of a physician, may use, but is not
10 limited to, therapeutic ~~exercise~~ and modalities ~~for the~~
11 ~~treatment of athletic injuries for which he or she has~~
12 ~~received appropriate training or education~~ of heat, light,
13 sound, cold, electricity, exercise, rehabilitation for which
14 the athletic trainer has received appropriate education and
15 training, or other mechanical devices or processes deemed
16 necessary by the directing physician to affect the care,
17 conditioning, and rehabilitation of athletic injuries.

18 "§34-40-9.

19 "(a) Nothing in this chapter shall be construed as
20 preventing or restricting any of the following persons from
21 engaging in the profession or occupation for which they are
22 licensed, certified, or registered in Alabama as follows:

23 "(1) Physicians and surgeons licensed by the Medical
24 Licensure Commission of Alabama.

25 "(2) Dentists licensed by the State Board of Dental
26 Examiners.

1 "(3) Optometrists licensed by the State Board of
2 Optometry.

3 "(4) Nurses licensed by the Alabama Board of
4 Nursing.

5 "(5) Chiropractors licensed by the State Board of
6 Chiropractic Examiners.

7 "(6) Podiatrists licensed by the State Board of
8 Podiatry.

9 "(7) Physical therapists licensed by the State Board
10 of Physical Therapy.

11 "(8) Occupational therapists licensed by the State
12 Board of Occupational Therapy.

13 "(9) Emergency medical technicians licensed by the
14 State Department of Public Health.

15 "(b) This chapter shall not apply to the following
16 persons:

17 "(1) Coaches and physical education instructors in
18 the performance of their duties.

19 "(2) ~~Apprentice athletic trainers~~ Athletic training
20 students who confine themselves to the duties prescribed in
21 this chapter.

22 "(3) Athletic trainers from other nations, states,
23 or territories performing their duties for their respective
24 teams or organizations and only during the course of their
25 team's or organization's stay in this state.

1 "(4) A person who performs any of the services set
2 forth in this chapter as long as the person does not violate
3 this chapter.

4 "§34-40-10.

5 "The board may refuse to issue a license certificate
6 to any person and, after notice and hearing pursuant to its
7 regulations and rules, may suspend or revoke the license
8 certificate of any person or fine a licensee who has done any
9 of the following:

10 "(1) Practiced athletic training other than under
11 the direction or referral, or both, of a physician licensed to
12 practice medicine or surgery.

13 "(2) Uses drugs or intoxicating liquors to an extent
14 which affects professional competency.

15 "(3) Obtained or attempted to obtain a license by
16 fraud or deception.

17 "(4) Been grossly negligent in the practice of
18 athletic training.

19 "(5) Been adjudged mentally incompetent by a court
20 of competent jurisdiction.

21 "(6) Been guilty of conduct detrimental to the best
22 interest of the public.

23 "(7) Has been imprisoned for violating any state or
24 federal controlled substance law.

25 "(8) Treated or undertaken to treat human ailments
26 otherwise than by athletic training and according to standards
27 established by the board.

1 "(9) Advertised unethically according to standards
2 as set by the board.

3 "(10) Failed or refused to obey any lawful order or
4 regulation of the board.

5 "(11) Unlawful invasion of the field of practice of
6 any other profession.

7 "§34-40-11.

8 "(a) Any person whose application for a license is
9 denied is entitled to a hearing before the board if the person
10 submits a written request to the board. Proceedings for
11 revocation or suspension of a license shall be commenced by
12 filing charges with the board in writing and under oath. The
13 charges may be made by any person or persons. The secretary
14 shall fix a time and place for a hearing and shall cause a
15 written copy of the charges or reason for denial of a license,
16 together with a notice of the time and place fixed for hearing
17 to be served on the applicant requesting the hearing or the
18 licensee against whom the charges have been filed at least 20
19 days prior to the date set for the hearing. Service of charges
20 and notice of hearing may be given by certified mail to the
21 last known address of the licensee or applicant. At the
22 hearing, the applicant or licensee has the right to appear
23 either personally or by counsel, or both, to produce
24 witnesses, to have subpoenas issued by the board, and to
25 cross-examine the opposing or adverse witnesses. The board is
26 not bound by the strict rules of procedure or by the laws of
27 evidence in the conduct of the proceedings, but the

1 determination shall be founded upon sufficient legal evidence
2 to sustain it. The board shall determine the charges on their
3 merits and enter an order in a permanent record setting forth
4 the findings of fact and law, and the action taken. On
5 application, the board may reissue a license to a person whose
6 license has been cancelled or revoked, but the application may
7 not be made prior to the expiration of a period of six months
8 after the order of cancellation or revocation has become
9 final; and the application shall be made in the manner and
10 form as the board may require.

11 "(b) A person whose application for a license has
12 been refused or whose license has been cancelled, revoked, or
13 suspended by the board may take an appeal, within 30 days
14 after the order is entered ~~in the judicial circuit of his or~~
15 ~~her residence or~~ in the Montgomery County Circuit Court, to
16 any court of competent jurisdiction.

17 "(c) Appeal from the judgment of the court lies as
18 in other civil cases.

19 "§34-40-13.

20 "Any person who holds a license pursuant to this
21 chapter as an athletic trainer may use the words "athletic
22 trainer" or "licensed athletic trainer," and may use the
23 letters "LAT" in connection with his or her name to denote his
24 or her licensure as an athletic trainer. It shall be unlawful
25 for any person to practice or offer to practice athletic
26 training services or to represent himself or herself as an

1 athletic trainer unless the person is licensed as an athletic
2 trainer under the provisions of this chapter.

3 "§34-40-14.

4 "There is hereby created in the State Treasury a
5 fund to be known as the Athletic Trainers Fund. All receipts
6 of the Alabama ~~Athletic Trainers~~ Board of Athletic Trainers
7 shall be deposited into this fund. The expenses incurred by
8 the Alabama ~~Athletic Trainers~~ Board of Athletic Trainers in
9 carrying out the provisions of this chapter shall be paid out
10 of the Athletic Trainers Fund by warrant of the Comptroller
11 upon the Treasurer upon itemized vouchers, approved by the
12 chair of the board or his or her designee. The Alabama Board
13 of Athletic Trainers may make grants, and to otherwise arrange
14 with qualified individuals, institutions, or agencies to
15 develop and promote athletic training programs and continuing
16 education programs for athletic trainers. No funds shall be
17 withdrawn or expended except as budgeted and allotted
18 according to Sections 41-4-80 to 41-4-96 and Sections 41-19-1
19 to 41-19-12, inclusive, and only in amounts as stipulated in
20 the general appropriations act or other appropriations acts.

21 "§34-40-15.

22 "Nothing in this chapter shall authorize an athletic
23 trainer or ~~apprentice athletic trainer~~ athletic training
24 student to engage in the practice of medicine; to diagnose,
25 treat, or cure any human disease, illness, ailment, infirmity,
26 pain, or other condition which is not an athletic injury; to

1 perform surgery of any type or description; or to prescribe
2 any drug or medical device.

3 "Nothing in this chapter shall mandate third party
4 reimbursement for the services of an athletic trainer."

5 Section 2. Sections 34-40-7 and 34-40-16, Code of
6 Alabama 1975, are repealed.

7 Section 3. This act shall become effective
8 immediately following its passage and approval by the
9 Governor, or its otherwise becoming law.